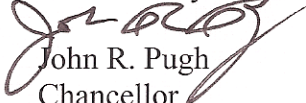


DATE: December 3, 2008

TO: Jill Dumesnil, President
UAS Faculty Senate

FROM: 
John R. Pugh
Chancellor

RE: Senate Motions of November 14, 2008
Transmitted November 16, 2008
Written Notice of Veto and Explanation

I am writing to provide written notice and explanation of my veto of the three motions that were passed by the UAS Faculty Senate on November 14, and transmitted to my office on November 16, 2008.

In short, I cannot support and am vetoing these motions because they conflict with the principles of shared governance which are established in the Senate Constitution and Regents' Policy. However, and as discussed more fully below, I affirm the principles of shared governance, consistent with Regents' Policy and the Senate Constitution.

Background - Each of the three motions directly states or implies that the role of the UAS Faculty Senate is to fully participate in every decision by UAS administration which affects senate responsibilities. For example, the "*Motion Relating to Shared Governance*" states in part:

Be it resolved that the UAS Faculty Senate asserts its right to participate in every decision specified as a Faculty Senate responsibility in the UAS Constitution for Faculty Governance. The UAS administration will notify the Senate in a timely manner of any meeting which includes issues related to the Faculty Senate's constitutional responsibilities.

The "*Public Affirmation*" and "*Committee on shared Governance*" motions are based on these same assertions. In my opinion these motions misconstrue the fundamental legislative and representational nature of the Senate's responsibility and authority. These motions impermissibly seek to involve the Senate in individual administrative decisions.

They would infringe on the executive authority, and concomitant responsibility, that is granted to the chancellor by Regents' Policy, authority that is recognized by the Senate's own Constitution. My conclusions in this regard are based on review of the Constitution for Faculty Governance at UAS (Senate Constitution), as well as Regents' Policy.

Senate Constitution - The legislative role of the Senate is explicitly stated in the Senate Constitution. That document states under Article II, Section 4, *Responsibilities*, that the Senate's responsibilities relate to **policy**:

A. The Senate shall function as the legislative and administrative body having primary authority to initiate, develop, recommend, review, and approve **University policy**, including but not limited to the following:

Academic Affairs: (10 areas are specifically listed. These include academic advising, academic suspension and dismissal, and "other matters directly concerned with the academic programs of the university.")

Faculty Affairs: (11 areas are specifically listed. These include appointment, reappointment and termination, workload, professional ethics, and "other matters affecting the welfare of the faculty.")

Administrative Matters: (11 areas are specifically listed. These include administrative appointments, physical facilities, course scheduling, safety and "other matters affecting the welfare of the university.")
(Emphasis added.)

Thus under its Constitution, Senate responsibilities are explicitly related and limited to legislation, i.e., formulation of university policy in stated areas. The Senate's Constitution cannot and does not purport to authorize Senate participation in executive action.

The fact that Senate action is legislative in nature is further borne out by Article IX, *Senate Action and Chancellor's Veto Powers*, and Article X, *Relations of the Senate with Other Governing Bodies*. The Senate acts as a **body**, by way of findings, resolutions, recommendations, or reports. This allows the chancellor to exercise the veto power and administrative authority recognized by the Constitution and explicit in Regents' Policy. The Senate acts, communicates, and represents through legislation and participation in Chancellor's Cabinet, Faculty Alliance, and other university committees, not through direct participation in individual administrative decisions.

To construe the provisions of the Senate's Constitution to require that the Senate "participate in every decision specified as a Faculty Senate responsibility" would ignore the Senate Constitution's specific language regarding both policy formulation and methods of Senate action. In addition, it would interfere with the chancellor's executive role, and evade the chancellor's veto power.

Moreover, the stated breadth of the Senate's policy-making responsibilities covers numerous aspects of university life and business. Notifying "the Senate in a timely manner of every meeting which includes issues related to the Faculty Senate's constitutional responsibilities," and ensuring its participation in those meetings, would involve the Senate in numerous meetings conducted by administration or requested by

faculty, students, or the public. That is not required by the language or intent of the Senate Constitution as discussed above, and would directly conflict with Article X, Section 1, which specifies Senate participation in Chancellor's Cabinet, not every meeting on a topic of interest to the Senate. Nor is Senate participation in administrative action permitted by Regents' Policy, as developed further below.

Regents' Policy - Looking at Regents' Policy, which authorizes governance, the same conclusion must be reached. Regents' Policy explicitly supports the Senate's legislative role, but provides no support for an executive role for governance. The chancellor is the "chief academic and administrative officer" of the MAU. (Regents' Policy 01.03.990 & 02.02.015.) Governance carries out its functions "subject to the authority of the board and the president and chancellors." (Regents' Policy 03.01.010.D.)

Five Governance functions are set out in Regents' Policy 03.01.010.D.¹ None of the five functions include direct participation in the individual administrative acts of the University. The Senate derives its authority from Regents' Policy. The UAS Senate Constitution cannot be read to conflict with or supersede its authorizing document, or annul the authority granted the chancellor by Regents' Policy.

Additional Thoughts and Conclusion – For the reasons discussed above, I cannot support and have vetoed these three motions because they conflict with the principles established in the Senate Constitution and Regents' Policy.

I will not address in detail the numerous practical and legal ramifications of the Senate's assertion of a right to participate in individual administrative actions. These include but are not limited to implications for collective bargaining, the legal implications of having Senate representatives involved in student discipline or personnel actions, and the expense in time and productivity of such an approach to shared governance.

I do, however, want to briefly address the assertion that UAS faculty have been systematically excluded "*from any meaningful role in the affairs of the University,*" and that "*shared governance has been catastrophically diminished.*" My experience is that

¹ Regents' Policy 03.01.010 Faculty, Staff, and Student Governance.

D. Governance organizations shall carry out their functions subject to the authority of the board and the president and chancellors. The organizations' purposes are to:

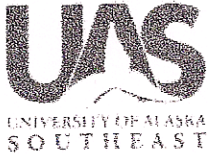
1. provide an effective opportunity for university faculty, staff and students to play a meaningful role in matters affecting their welfare;
2. represent the viewpoints of university faculty, staff and students on regents' policy, university regulation, and other matters affecting the interests of the university;
3. address through legislative action other matters as described in their approved constitutions;
4. advise the president and chancellors in a timely fashion and in a manner set forth in individual organizational constitutions; and
5. communicate to faculty, staff and students information which is of interest and concern to the university.

those statements are not accurate. Within the limits recognized by the Senate Constitution, i.e., state law, Regents' Policy, and collective bargaining agreements, the Senate is the body that UAS administration relies on to formulate policy and set standards in numerous areas affecting academic life at UAS. I believe any objective observer would conclude that the Senate's legislative function is alive and well at UAS.

In addition, Article X of the Senate Constitution governs *Relations of the Senate with Other Governing Bodies*. Section 1 provides that the Senate president and president elect represent faculty in meetings of the Chancellor's Cabinet. Section 3 provides that the Senate president and president elect work with the chancellor, provost, and deans to appoint faculty to various university committees. There has been and will continue to be full cooperation between administration and the Senate in this regard. There has been no exclusion, systematic or otherwise, from these designated channels for communication and representation.

I have and will continue to give my full support to the Senate's participation in the governance of UAS through the presentation of faculty viewpoints and the establishment of standards and policies in areas where faculty have a direct and reasonable interest or have specific expertise.

In conclusion, I want to affirm the principles of shared governance, consistent with Regents' Policy and the Senate Constitution. I look forward to working with the Faculty Senate to strengthen UAS as a regional comprehensive university, and to make UAS the university of choice not only for students in the region, but for students throughout Alaska and the Nation.



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MOTION RELATING TO SHARED GOVERNANCE AT UAS

MOTION: passed unanimously

We, the faculty of UAS, are committed to the health and continuing development of the University of Alaska Southeast. In order to address the numerous challenges UAS faces, it is imperative for faculty and administration to work together. The mechanism for doing so is clearly outlined in the UAS Constitution for Faculty Governance.

Because of long-term systematic exclusion of UAS faculty from any meaningful role in the affairs of the University, shared governance has been catastrophically diminished. This crisis is pushing already low faculty morale past a sustainable level for faculty and student retention. Further, because NWCCU accreditation standards clearly state the importance of shared governance, this problem must be solved before the upcoming reaccreditation visit.

Therefore UAS faculty are adamant in directing the Senate to restore the faculty role in shared governance at UAS, so that UAS operates in accordance with the UAS Constitution for Faculty Governance, especially as stipulated in Article II Section 4, Responsibilities.

Be it resolved that the UAS Faculty Senate asserts its right to participate in every decision specified as a Faculty Senate responsibility in the UAS Constitution for Faculty Governance. The UAS administration will notify the Senate in a timely manner of any meeting which includes issues related to the Faculty Senate's constitutional responsibilities.

APPROVED: _____
DATE: _____

DISAPPROVED: J. R. G.
DATE: 12/3/08

COMMENTS:

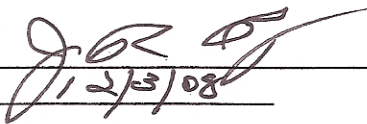


MOTION RELATING TO PUBLIC AFFIRMATION OF SHARED GOVERNANCE

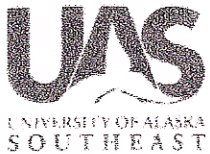
MOTION: passed unanimously

The Faculty Senate asks the Chancellor at the November 17 Chancellor's Cabinet meeting to publicly affirm the principles of shared governance at UAS as articulated in Board of Regents Policy P03.01.010 and UAS Constitution for Faculty Governance and to express his commitment to include faculty in all of the decisions pertaining to the Faculty Senate's responsibilities specified in the aforementioned documents.

APPROVED: _____
DATE: _____

DISAPPROVED:  _____
DATE: 12/3/08

COMMENTS:



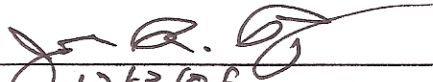
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MOTION RELATING TO SENATE COMMITTEE ON SHARED GOVERNANCE

MOTION: passed unanimously

The Faculty Senate directs the Senate President to appoint an ad hoc faculty committee to monitor and document specific events and issues pertaining to shared governance at UAS.

APPROVED: _____
DATE: _____

DISAPPROVED:  _____
DATE: 12/3/08

COMMENTS: